



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2019-0503; FRL-10003-70-Region 4]

**Air Plan Approval; GA and NC: Infrastructure Requirements
for the 2015 8-hour Ozone National Ambient Air Quality Standard**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve portions of the Georgia and North Carolina State Implementation Plan (SIP) submissions provided on September 24, 2018 and September 27, 2018, respectively, for inclusion into their respective SIPs. This proposal pertains to the infrastructure requirements of the Clean Air Act (CAA or Act) for the 2015 8-hour ozone national ambient air quality standard (NAAQS). Whenever EPA promulgates a new or revised NAAQS, the CAA requires that each state adopt and submit a SIP for the implementation, maintenance and enforcement of each NAAQS promulgated by EPA. Georgia and North Carolina certified that their SIPs contain provisions that ensure the 2015 8-hour ozone NAAQS is implemented, enforced, and maintained in their State. EPA is proposing to determine that the Georgia and North Carolina infrastructure SIP submissions satisfy certain required infrastructure elements for the 2015 8-hour ozone NAAQS.

DATES: Comments must be received on or before [insert date 30 days after date of publication in the Federal Register].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2019-0503 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Tiereny Bell, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Ms. Bell can be reached via telephone at (404) 562-9088 or via electronic mail at bell.tiereny@epa.gov.

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I. Background and Overview

On October 1, 2015, EPA promulgated a revised primary and secondary NAAQS for ozone, revising the 8-hour ozone standards from 0.075 parts per million (ppm) to a new more protective level of 0.070 ppm. *See* 80 FR 65292 (October 26, 2015). Pursuant to section 110(a)(1) of the CAA, states are required to submit SIP revisions meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. Section 110(a)(2) requires states to address basic SIP elements such as requirements for monitoring, basic program requirements and legal authority that are designed to assure attainment and maintenance of the NAAQS. This particular type of SIP is commonly referred to as an “infrastructure SIP.” States were required to submit such SIPs for the 2015 8-hour ozone NAAQS to EPA no later than October 1, 2018.¹

EPA is proposing to approve Georgia’s September 24, 2018 SIP revision provided to EPA through the Georgia Environmental Protection Division (GA EPD) and North Carolina’s September 27, 2018² SIP revision provided to EPA through the North Carolina Department of Environmental Quality (NC DEQ) for the applicable requirements of the 2015 8-hour ozone

¹ In these infrastructure SIP submissions, states generally certify evidence of compliance with sections 110(a)(1) and (2) of the CAA through a combination of state regulations and statutes, some of which have been incorporated into the SIP. In addition, certain federally-approved, non-SIP regulations may also be appropriate for demonstrating compliance with sections 110(a)(1) and (2).

² The September 27, 2018, SIP submission provided by NC DEQ’s Division of Air Quality (DAQ) was received by EPA on October 10, 2018.

NAAQS, with the exception of interstate transport provisions of section 110(a)(2)(D)(i)(I) pertaining to contribution to nonattainment or interference with maintenance in other states, and prevention of significant deterioration (PSD) provisions related to major sources under sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), and 110(a)(2)(J). With respect to the interstate transport provisions of section 110(a)(2)(D)(i)(I) and PSD provisions related to major sources under sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), and 110(a)(2)(J), EPA will address these provisions in separate rulemaking actions.

II. What Elements are Required Under Sections 110(a)(1) and 110(a)(2)?

Section 110(a) of the CAA requires states to submit SIPs to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affects the content of the submission. The contents of such SIP submissions may also vary depending upon what provisions the state's existing SIP already contains.³

More specifically, section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for infrastructure SIP

³ Throughout this rulemaking, the term "North Carolina Administrative Code (NCAC)" indicates that the cited regulation has been approved into North Carolina's SIP, unless otherwise indicated. The term "North Carolina General Statutes (NCGS)" cites to the North Carolina state statutes, which are not a part of the SIP unless otherwise indicated. For Georgia, the term "Georgia's Air Quality Control Rule" indicates that the cited regulation has been approved into Georgia's SIP, unless otherwise indicated. The term "Georgia Air Quality Act Article: Air Quality (O.C.G.A.)" cites to Georgia state statutes, which are not part of the SIP unless otherwise indicated.

requirements related to a newly established or revised NAAQS. As mentioned above, these requirements include basic SIP elements such as requirements for monitoring, basic program requirements, and legal authority that are designed to assure attainment and maintenance of the NAAQS. The requirements of section 110(a)(2) are described in EPA’s September 13, 2013, memorandum entitled “Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)” (hereinafter “2013 Guidance”) are listed below and summarized in section IV of this rulemaking:⁴

- 110(a)(2)(A): Emission Limits and Other Control Measures
- 110(a)(2)(B): Ambient Air Quality Monitoring/Data System
- 110(a)(2)(C): Programs for Enforcement of Control Measures and for Construction or Modification of Stationary Sources⁵
- 110(a)(2)(D)(i)(I) and (II): Interstate Pollution Transport
- 110(a)(2)(D)(ii): Interstate Pollution Abatement and International Air Pollution
- 110(a)(2)(E): Adequate Resources and Authority, Conflict of Interest, and Oversight of Local Governments and Regional Agencies
- 110(a)(2)(F): Stationary Source Monitoring and Reporting
- 110(a)(2)(G): Emergency Powers

⁴Two elements identified in section 110(a)(2) are not governed by the three-year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within three years after promulgation of a new or revised NAAQS, but rather are due at the time the nonattainment area plan requirements are due pursuant to section 172. These requirements are: (1) submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D, title I of the CAA; and (2) submissions required by section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D, title I of the CAA. This proposed rulemaking does not address infrastructure elements related to section 110(a)(2)(I) or the Part D nonattainment permitting requirements of 110(a)(2)(C).

⁵As mentioned above, the Part D permit program for construction and modification of major stationary sources is not relevant to this proposed rulemaking.

- 110(a)(2)(H): SIP Revisions
- 110(a)(2)(I): Plan Revisions for Nonattainment Areas⁶
- 110(a)(2)(J): Consultation with Government Officials, Public Notification, and PSD and Visibility Protection
- 110(a)(2)(K): Air Quality Modeling and Submission of Modeling Data
- 110(a)(2)(L): Permitting fees
- 110(a)(2)(M): Consultation and Participation by Affected Local Entities

III. What is EPA’s Approach to the Review of Infrastructure SIP Submissions?

EPA is acting upon portions of the SIP submissions from Georgia and North Carolina that address certain infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the 2015 8-hour ozone NAAQS. Whenever EPA promulgates a new or revised NAAQS, CAA section 110(a)(1) requires states to make SIP submissions to provide for the implementation, maintenance, and enforcement of the NAAQS, commonly referred to as an “infrastructure SIP.” These infrastructure SIP submissions must meet the various requirements of CAA section 110(a)(2), as applicable. Due to ambiguity in some of the language of CAA section 110(a)(2), EPA believes that it is appropriate to interpret these provisions in the specific context of acting on infrastructure SIP submissions. EPA has previously provided comprehensive guidance on the application of these provisions through a guidance document for infrastructure SIP submissions and through regional actions on infrastructure submissions.⁷ Unless otherwise noted below, EPA

⁶ As also mentioned above, this element is not relevant to this proposed rulemaking.

⁷ EPA explains and elaborates on these ambiguities and its approach to address them in its September 13, 2013 Infrastructure SIP Guidance (available at https://www3.epa.gov/airquality/urbanair/sipstatus/docs/Guidance_on_Infrastructure_SIP_Elements_Multipollutant_FINAL_Sept_2013.pdf), as well as in numerous agency actions, including EPA’s prior actions on Georgia and

is following that existing approach in acting on these submissions. In addition, in the context of acting on such infrastructure submissions, EPA evaluates the submitting state's SIP for facial compliance with statutory and regulatory requirements, not for the state's implementation of its SIP.⁸ EPA has other authority to address any issues concerning a state's implementation of the rules, regulations, consent orders, etc. that comprise its SIP.

IV. What is EPA's Analysis of How Georgia and North Carolina Addressed the Elements of the Section 110(a)(1) and (2) "Infrastructure" Provisions?

Georgia's and North Carolina's infrastructure SIP submissions address certain provisions of sections 110(a)(1) and (2) as described below.

1. 110(a)(2)(A) *Emission Limits and Other Control Measures*: Section 110(a)(2)(A) requires that each implementation plan include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements. Several regulations within Georgia's and North Carolina's SIPs include enforceable emission limitations and other control measures. EPA provides more detail below for each state addressed in this proposed rulemaking.

Georgia

Georgia's Air Quality Control Rules 391-3-1-.01 - "*Definitions. Amended.*", 391-3-1-.02, - "*Provisions. Amended.*", and 391-3-1-.03 - "*Permits. Amended.*" collectively establish enforceable emissions limitations and other control measures, means, or techniques for activities

North Carolina infrastructure SIPs to address the 2010 Nitrogen Dioxide NAAQS. *See* 81 FR 41905 (June 28, 2016) and 81 FR 47115 (July 20, 2016), respectively.

⁸ *See* Mont. Envtl. Info. Ctr. v. Thomas, 902 F.3d 971 (9th Cir. 2018).

that contribute to ozone concentrations in the ambient air, and provide authority for GA EPD to establish such limits and measures as well as schedules for compliance through SIP-approved permits to meet the applicable requirements of the CAA.

North Carolina

CAA section 110(a)(2)(A) requirements are met through several North Carolina Administrative Code (NCAC) regulations. Specifically, 15A NCAC 2D .0500 *Emission Control Standards* establishes emission limits for ozone precursor pollutants. The following SIP-approved rules address additional control measures, means and techniques: 15A NCAC 2D .0600 - *Monitoring: Recordkeeping: Reporting*, 15A NCAC 2D .0900 - *Volatile Organic Compounds*, 15A NCAC 2D .1400 - *Nitrogen Oxides*, and 15A NCAC 2D .2600 - *Source Testing*. In addition, North Carolina General Statutes (NCGS)143-215.107(a)(5) - *Air quality standards and classifications*, provides the North Carolina Environmental Management Commission (EMC) with the statutory authority, “[t]o develop and adopt emission control standards as in the judgment of the Commission may be necessary to prohibit, abate, or control air pollution commensurate with established air quality standards.”

EPA has made the preliminary determination that the provisions contained in Georgia’s and North Carolina’s SIP-approved state regulations and state statutes are adequate for enforceable emission limitations and other control measures, means, or techniques, as well as schedules and timetables for compliance to satisfy the requirements of section 110(a)(2)(A) for the 2015 8-hour ozone NAAQS in each of the states.

2. 110(a)(2)(B) *Ambient Air Quality Monitoring/Data System*: Section 110(a)(2)(B) requires SIPs to provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to: (i) monitor, compile, and analyze data on ambient air quality, and (ii)

upon request, make such data available to the Administrator. EPA provides more detail below for each state addressed in this proposed rulemaking.

Georgia

Georgia's authority to monitor ambient air quality is found in the Georgia Air Quality Act Article 1: Air Quality (O.C.G.A. Section 12-9-6(b)(2)).

North Carolina

North Carolina's NCGS 143-215.107(a)(2) - *Air quality standards and classifications* provides the EMC with the statutory authority "To determine by means of field sampling and other studies, including the examination of available data collected by any local, State or federal agency or any person, the degree of air contamination and air pollution in the State and the several areas of the State."

Ambient Monitoring Network Plans

Annually, states develop and submit to EPA for approval statewide ambient monitoring network plans consistent with the requirements of 40 CFR parts 50, 53, and 58. The annual network plan involves an evaluation of any proposed changes to the monitoring network and includes the annual ambient monitoring network design plan and a certified evaluation of the agency's ambient monitors and auxiliary support equipment.⁹

On June 29, 2018, and June 13, 2019, North Carolina and Georgia submitted their monitoring network plans to EPA, respectively. On October 22, 2018, and October 3, 2019, EPA approved these monitoring network plans for North Carolina and Georgia, respectively. Georgia's and North Carolina's approved monitoring network plans are available in the docket for this proposed action. EPA has made the preliminary determination that

⁹ On occasion, proposed changes to the monitoring network are evaluated outside of the network plan approval process in accordance with 40 CFR part 58.

Georgia's and North Carolina's SIPs and practices are adequate for the ambient air quality monitoring and data system requirements related to the 2015 8-hour ozone NAAQS.

3. 110(a)(2)(C) *Programs for Enforcement of Control Measures and for Construction or Modification of Stationary Sources*: This element consists of three sub-elements: enforcement, state-wide regulation of new and modified minor sources and minor modifications of major sources, and preconstruction permitting of major sources and major modifications in areas designated attainment or unclassifiable for a NAAQS as required by CAA title I part C (i.e., the major source PSD program). Georgia's and North Carolina's 2015 8-hour ozone NAAQS infrastructure SIP submissions cite a number of SIP provisions to address these requirements. EPA's rationale for its proposed action regarding each sub-element is described below.

Georgia

Enforcement: Georgia's enforcement program covers mobile and stationary sources, consumer products, and fuels. The enforcement requirements are met through two of Georgia's Air Quality Control Rules: 391-3-1-.07 - "*Inspections and Investigations. Amended.*" and 391-3-1-.09 - "*Enforcement. Amended.*" Georgia also cites to enforcement authority found in O.C.G.A. Section 12-9-13 in its submittal, which provides the director with the authority to issue orders to remedy violations of rules and regulations. Collectively, these regulations and State statute provide for enforcement of ozone emission limits and control measures.

Regulation of minor sources and modifications: Georgia's SIP-approved Air Quality Control Rule 391-3-1-.03(1) - "*Construction (SIP) Permit.*" governs the preconstruction permitting of modifications, construction of minor stationary sources, and minor modifications of major stationary sources.

Preconstruction PSD Permitting for Major Sources: With regard to section 110(a)(2)(C) related to the programs for preconstruction PSD permitting for major sources, EPA is not proposing any action in this rulemaking. EPA will consider these requirements in relation to Georgia's 2015 8-hour ozone NAAQS infrastructure submission in a separate rulemaking.

North Carolina

Enforcement: NC DAQ's SIP-approved regulations provide for enforcement of ozone emission limits and control measures through enforceable permits. North Carolina's infrastructure SIP submission also cited to the following statutory provisions as supporting this element: NCGS 143-215.108 - *Control of sources of air pollution; permits required* and NCGS 143-215.107(a)(7) - *Air quality standards and classifications*. In addition, North Carolina cited NCGS 143-215.6A, 6B, and 6C - *Enforcement procedures: civil penalties, criminal penalties, and injunctive relief*, which provides NC DAQ with the statutory authority to seek civil and criminal penalties and injunctive relief to enforce air quality rules.

Regulation of minor sources and modifications: NC DAQ's Regulation 15A NCAC 2Q .0300 - *Construction and Operation Permits* governs the preconstruction permitting of minor modifications and construction of minor stationary sources.

PSD Permitting for Major Sources: With regard to section 110(a)(2)(C) related to the programs for preconstruction PSD permitting for major sources, EPA is not proposing any action in this rulemaking. EPA will consider these requirements in relation to North Carolina's 2015 8-hour ozone NAAQS infrastructure submission in a separate rulemaking.

EPA has made the preliminary determination that Georgia's and North Carolina's SIPs are adequate for enforcement of control measures and regulation of minor sources and modifications related to the 2015 8-hour ozone NAAQS.

4. 110(a)(2)(D)(i)(I) and (II) *Interstate Pollution Transport*: Section 110(a)(2)(D)(i) has two components: 110(a)(2)(D)(i)(I) and 110(a)(2)(D)(i)(II). Each of these components has two subparts resulting in four distinct components, commonly referred to as “prongs,” that must be addressed in infrastructure SIP submissions. The first two prongs, which are codified in section 110(a)(2)(D)(i)(I), are provisions that prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state (“prong 1”) and interfering with maintenance of the NAAQS in another state (“prong 2”). The third and fourth prongs, which are codified in section 110(a)(2)(D)(i)(II), are provisions that prohibit emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality in another state (“prong 3”), or to protect visibility in another state (“prong 4”).

110(a)(2)(D)(i)(I) – prongs 1, 2, and 3: EPA is not proposing any action in this rulemaking related to the interstate transport provisions pertaining to the contribution to nonattainment or interference with maintenance in other states of section 110(a)(2)(D)(i)(I) (prongs 1 and 2) or the PSD element (prong 3). EPA will consider these requirements in relation to Georgia’s and North Carolina’s 2015 8-hour ozone NAAQS infrastructure submission in a separate rulemaking.

110(a)(2)(D)(i)(II) – prong 4: Section 110(a)(2)(D)(i)(II) requires that the SIP contain adequate provisions to protect visibility in other states. For any relevant NAAQS, a state may satisfy the prong 4 requirement by relying on a fully-approved regional haze SIP.

Georgia

Georgia’s SIP contains a fully-approved regional haze plan (83 FR 19637, May 4, 2018). EPA’s approval of Georgia’s regional haze SIP ensures that emissions from Georgia are not

interfering with measures to protect visibility in other states, satisfying the requirements of prong 4 of section 110(a)(2)(D)(i)(II) for the 2015 8-hour ozone NAAQS.

North Carolina

North Carolina's SIP contains a fully-approved regional haze plan (81 FR 58400, August 25, 2016). EPA's approval of North Carolina regional haze SIP ensures that emissions from North Carolina are not interfering with measures to protect visibility in other states, satisfying the requirements of prong 4 of section 110(a)(2)(D)(i)(II) for the 2015 8-hour ozone NAAQS.

EPA has made the preliminary determination that Georgia's and North Carolina's SIPs meet the requirements of prong 4 of section 110(a)(2)(D)(i)(II) for the 2015 8-hour ozone NAAQS.

5. 110(a)(2)(D)(ii) *Interstate Pollution Abatement and International Air Pollution*: Section 110(a)(2)(D)(ii) requires SIPs to include provisions ensuring compliance with section 115 and 126 of the Act, relating to notification to nearby states, and interstate and international pollution abatement.

Georgia

The following two Georgia Air Quality Control Rules provide Georgia with the authority to conduct certain actions in support of this infrastructure element: 391-3-1-.02(7) for the State's PSD regulations and 391-3-1-.03(8) for the State's permitting regulations. Georgia's Air Quality Control Rules 391-3-1-.02.(7) - "*Provisions. Amended,*" and 391-3-1-.03.(8) - "*Permits. Amended,*" collectively, require any new major source or major modification to undergo PSD or nonattainment new source review (NNSR) permitting, and provide notification to other potentially affected Federal, state, and local government agencies, which satisfies the notification

requirements of section 126(a). In addition, Georgia does not have any pending obligation under section 115 or 126(b) of the CAA related to international or interstate pollution abatement.

North Carolina

North Carolina's State regulations: 15A NCAC 2D .0530 - "*Prevention of Significant Deterioration*" and 15A NCAC 2D .0531 - "*Sources in Nonattainment Areas*" provide how NC DAQ will notify neighboring states of potential impacts from new or modified sources. These regulations require NC DAQ to provide an opportunity for a public hearing to the public, which includes state or local air pollution control agencies, "whose lands may be affected by emissions from the source or modification" in North Carolina. In addition, North Carolina does not have any pending obligation under sections 115 or 126(b) of the CAA related to international or interstate pollution abatement.

EPA has made the preliminary determination that Georgia's and North Carolina's SIPs and practices are adequate for ensuring compliance with the applicable requirements relating to interstate and international pollution abatement for the 2015 8-hour ozone NAAQS.

6. 110(a)(2)(E) *Adequate Resources and Authority, Conflict of Interest, and Oversight of Local Governments and Regional Agencies:* Section 110(a)(2)(E) requires that each implementation plan provide: (i) necessary assurances that the state will have adequate personnel, funding, and authority under state law to carry out its implementation plan, (ii) that the state comply with the requirements respecting state boards pursuant to section 128 of the Act, and (iii) necessary assurances that, where the state has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the state has responsibility for ensuring adequate implementation of such plan provisions. EPA's rationale

respecting each sub-element for which EPA is proposing action in this rulemaking is described below.

Georgia

In support of sub-elements 110(a)(2)(E)(i) and (iii), Georgia's infrastructure SIP submission demonstrates that it has adequate authority for promulgating rules and regulations for the NAAQS, emissions standards and general policies, a system of permits, fee schedules for the review of plans, and other planning needs. In its SIP submittal, Georgia cites to its authority for section 110(a)(2)(E)(i) as the CAA section 105 grant process, O.C.G.A. 12-9-10, and Georgia's Air Quality Control Rule 391-3-1-.03(9) which establish Georgia's Air Permit Fee System. For section 110(a)(2)(E)(iii), the State does not rely on localities in Georgia for specific SIP implementation. As evidence of the adequacy of GA EPD's resources with respect to sub-elements (i) and (iii), EPA submitted a letter to Georgia on March 25, 2019, outlining CAA section 105 grant commitments and the current status of these commitments for fiscal year 2018. The letter EPA submitted to GA EPD is available in the docket for this proposed action. Annually, states update these grant commitments based on current SIP requirements, air quality planning, and applicable requirements related to the NAAQS. There were no outstanding issues in relation to the SIP for fiscal year 2018, therefore, GA EPD's grants were finalized and closed out.

Section 110(a)(2)(E)(ii) requires that the state comply with section 128 of the CAA. Section 128 requires that the SIP contain requirements providing that: (a)(1) the majority of members of the state board or body which approves permits or enforcement orders represent the public interest and do not derive any significant portion of their income from persons subject to permitting or enforcement orders under the CAA; and (a)(2) any potential conflicts of interest by

such board or body, or the head of an executive agency with similar powers be adequately disclosed. To meet these requirements, Georgia's infrastructure SIP submission cites to O.C.G.A. Section 12-9-5 - *Powers and duties of Board of Natural Resources as to air quality generally* which provides the powers and duties of the Board of Natural Resources as to air quality and provides that at least a majority of members of this board represent the public interest and not derive any significant portion of income from persons subject to permits or enforcement orders, and that potential conflicts of interest will be adequately disclosed. This provision has been approved into the SIP.

North Carolina

In support of sub-elements 110(a)(2)(E)(i) and (iii), North Carolina's infrastructure SIP submission cites several regulations. Rule 15A NCAC 2Q. 0200 - "*Permit Fees*," provides the mechanism by which stationary sources that emit air pollutants pay a fee based on the quantity of emissions, which is authorized by State statute NCGS 143-215.3 - *General powers of Commission and Department: auxiliary powers*. NCGS 143-215.107(a)(1) - *Air quality standards and classifications*, provide the EMC with the statutory authority "[t]o prepare and develop, after proper study, a comprehensive plan or plans for the prevention, abatement and control of air pollution in the State or in any designated area of the State." NCGS 143-215.112 - *Local air pollution control programs*, provides the EMC with the statutory authority "to review and have general oversight and supervision over all local air pollution control programs." North Carolina has three local air agencies located in Buncombe (Western North Carolina), Forsyth, and Mecklenburg Counties that implement the SIP in these areas.

As further evidence of the adequacy of NC DAQ's resources, EPA submitted a letter to North Carolina on May 2, 2019, outlining CAA section 105 grant commitments and the current

status of these commitments for fiscal year 2018. The letter EPA submitted to North Carolina can be accessed at www.regulations.gov using Docket ID No. EPA-R04-OAR-2019-0503.

Annually, states update these grant commitments based on current SIP requirements, air quality planning, and applicable requirements related to the NAAQS. North Carolina satisfactorily met all commitments agreed to in the Air Planning Agreement for fiscal year 2018; therefore, North Carolina's grants were finalized and closed out. Collectively, these rules and commitments provide evidence that NC DAQ has adequate personnel, funding, and legal authority to carry out the State's implementation plan and related issues. EPA has made the preliminary determination that North Carolina has adequate resources and authority to satisfy sections 110(a)(2)(E)(i) and (iii) of the 2015 8-hour ozone NAAQS.

With respect to the requirements of section 110(a)(2)(E)(ii),¹⁰ North Carolina is not subject to section 128(a)(1) because it has no boards or bodies with authority over air pollution permits or enforcement actions. The initial authority to approve CAA permits or enforcement orders are instead delegated to the Secretary of NC DEQ and his/her designee. Final authority to approve permits and enforcement orders on appeal resides with administrative law judges (ALJs).

On November 3, 2015 (80 FR 67645), EPA approved North Carolina's section 128(a)(2) conflict of interest disclosure requirements for the Secretary of NC DEQ and his/her designee, and ALJs. ALJs¹¹ meet these requirements through NCGS 7A-754 which contains provisions related to the Office of Administrative Hearings addressing these requirements for the ALJs.

¹⁰ See the description of the section 128 requirements provided above regarding the proposed action on this element.

¹¹ EPA has determined that ALJs in North Carolina are authorized to approve permits and enforcement orders on appeal and that the ALJs must therefore meet the conflict of interest disclosure requirements of section 128(a)(2).

NCGS 7A-754 requires ALJs to act impartially, which broadly includes financial considerations, relationships, and other associations. ALJs are prohibited from participating in any matter in which the ALJ's impartiality might reasonably be questioned or the ALJ must disclose the potential conflict of interest on the record in the proceeding. In the case of such disclosures, the parties to the matter must agree that the disclosed conflict of interest is immaterial before the ALJ may continue to participate in the matter. The Secretary of NC DEQ and his/her designee must file an annual certification disclosing potential conflicts, amend the certification if circumstances change, and must additionally disclose any potential conflict for each final action.

EPA has made the preliminary determination that Georgia's and North Carolina's SIPs have adequately addressed the requirements of section 128(a), and accordingly have met the requirements of section 110(a)(2)(E)(ii) with respect to infrastructure SIP requirements. EPA is proposing to approve Georgia's and North Carolina's infrastructure SIP submissions as meeting the requirements of sub-elements 110(a)(2)(E)(i), (ii), and (iii).

7. 110(a)(2)(F) *Stationary Source Monitoring and Reporting*: Section 110(a)(2)(F) requires SIPs to meet applicable requirements addressing: (i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources, (ii) periodic reports on the nature and amounts of emissions and emissions related data from such sources, and (iii) correlation of such reports by the state agency with any emission limitations or standards established pursuant to this section, which reports shall be available at reasonable times for public inspection. EPA's rules regarding how SIPs need to address source monitoring requirements at 40 CFR 51.212 require SIPs to exclude any provision that would prevent the use of credible evidence of noncompliance.

Additionally, states are required to submit emissions data to EPA for purposes of the National Emissions Inventory (NEI), pursuant to Subpart A to 40 CFR Part 51 - “Air Emissions Reporting Requirements.” The NEI is EPA’s central repository for air emissions data. All states are required to submit a comprehensive emission inventory every three years and report emissions for certain larger sources annually through EPA’s online Emissions Inventory System. States report emissions data for the six criteria pollutants and the precursors that form them – nitrogen oxides, sulfur dioxides, ammonia, lead, carbon monoxide, particulate matter, and volatile organic compounds. Many states also voluntarily report emissions of hazardous air pollutants.

Georgia

Georgia’s infrastructure SIP submission describes the establishment of requirements for compliance testing by emissions sampling and analysis, and for emissions and operation monitoring to ensure the quality of data in the State.

The following SIP-approved rules enable Georgia to meet the requirements of this element: Georgia Air Quality Control Rules 391-3-1-.02(3) - “*Sampling.*”; 391-3-1-.02(6)(b) - “*Source Monitoring.*”; 391-3-1-.02(11) - “*Compliance Assurance Monitoring.*”; and 391-3-1-.03 - “*Permits. Amended.*” Also, O.C.G.A. 12-9-5(b)(6) provides the State with the authority to conduct actions regarding stationary source emissions monitoring and reporting in support of this infrastructure element. These rules collectively require emissions monitoring and reporting for activities that contribute to ozone concentrations in the air, including requirements for the installation, calibration, maintenance, and operation of equipment for continuously monitoring or recording emissions, and provide authority for GA EPD to establish such emissions monitoring

and reporting requirements through SIP-approved permits and require reporting of 2015 8-hour ozone precursor emissions.

Georgia's most recently published triennial compiled emissions information is available as part of the 2014 NEI. EPA compiles the emissions data, supplementing it where necessary, and releases it to the public through the website: <https://www.epa.gov/air-emissions-inventories/2014-national-emissions-inventory-nei-data>.

Georgia's Air Quality Control Rule 391-3-1-.02(3) - "*Sampling*," cites to the State's "Procedures for Testing and Monitoring Sources of Air Pollutants,"¹² which allows the use of all available information to determine compliance under its *Compliance with Standards and Maintenance Requirements* provisions. In addition, EPA is unaware of any provision preventing the use of credible evidence in the Georgia SIP.

North Carolina

North Carolina's infrastructure SIP submission identifies requirements providing how the State establishes requirements for emissions compliance testing and emissions sampling and analysis. NC DAQ uses these data to track progress towards maintaining the NAAQS, develop control and maintenance strategies, identify sources and general emission levels, and determine compliance with emission regulations and additional EPA requirements. The following North Carolina rules require monitoring of emissions from stationary sources: 15A NCAC 2D .0604 - *Exceptions to "Monitoring and Reporting Requirements;"* 15A NCAC 2D .0605 - *General Recordkeeping and Reporting Requirements;* 15A NCAC 2D .0611 - *"Monitoring Emissions from Other Sources;"* 15A NCAC 2D .0612 - *"Alternative Monitoring and Reporting Procedures;"* 15A NCAC 2D .0613 - *"Quality Assurance Program;"* and 15A NCAC 2D .0614 -

¹² These "Procedures for Testing and Monitoring Sources of Air Pollutants" are not incorporated into Georgia's SIP.

“Compliance Assurance Monitoring.” NCGS 143-215.107(a)(4) - *Air quality standards and classifications* provide the EMC with the statutory authority “To collect information or to require reporting from classes of sources which, in the judgment of the [EMC], may cause or contribute to air pollution.” Stationary sources are required to submit periodic emissions reports to the State by Rule 15A NCAC 2Q .0207 - *“Annual Emissions Reporting.”* Also, 15A NCAC 2D .0605(c) - *“General Recordkeeping and Reporting Requirements”* allows for the use of credible evidence. In the event that the NC DAQ Director has evidence that a source is violating an emission standard or permit condition, the Director may require that the owner or operator of any source submit to the Director any information necessary to determine the compliance status of the source. In addition, EPA is unaware of any provision preventing the use of credible evidence in the North Carolina SIP.

North Carolina’s most recently published triennial compiled emissions information is available as part of the 2014 NEI. EPA compiles the emissions data, supplementing it where necessary, and releases it to the public through the website: <https://www.epa.gov/air-emissions-inventories/2014-national-emissions-inventory-nei-data>.

EPA has made the preliminary determination that Georgia’s and North Carolina’s SIPs and practices are adequate for the stationary source monitoring and reporting requirements related to the 2015 8-hour ozone NAAQS. Accordingly, EPA is proposing to approve Georgia’s and North Carolina’s infrastructure SIP submissions with respect to section 110(a)(2)(F).

8. 110(a)(2)(G) *Emergency Powers*: This section requires that states demonstrate authority comparable with section 303 of the CAA and adequate contingency plans to implement such authority.

Georgia

Georgia's infrastructure SIP submission cites to O.C.G.A. Sections 12-9-2 - *Declaration of public policy*, 12-9-6 - *Powers and duties of director as to air quality generally*, 12-9-12 - *Injunctive relief*, 12-9-13 - *Proceedings for enforcement*, and 12-9-14 - *Powers of director in situations involving imminent and substantial danger to public health*), and Air Quality Control Rule 391-3-1-.04 - "Air Pollution Episodes." O.C.G.A. Section 12-9-2 provides "[i]t is declared to be the public policy of the state of Georgia to preserve, protect, and improve air quality...to attain and maintain ambient air quality standards so as to safeguard the public health, safety, and welfare." O.C.G.A. Section 12-9-6(b)(10) provides the Director of GA EPD authority to "issue orders as may be necessary to enforce compliance with [the Georgia Air Quality Act Article 1: Air Quality (O.C.G.A)] and all rules and regulations of this article." O.C.G.A. Section 12-9-12 provides that "[w]henever in the judgment of the director any person has engaged in or is about to engage in any act or practice which constitutes or will constitute an unlawful action under [the Georgia Air Quality Act Article 1: Air Quality (O.C.G.A)], he may make application to the superior court of the county in which the unlawful act or practice has been or is about to be engaged in, or in which jurisdiction is appropriate, for an order enjoining such act or practice or for an order requiring compliance with this article. Upon a showing by the director that such person has engaged in or is about to engage in any such act or practice, a permanent or temporary injunction, restraining order, or other order shall be granted without the necessity of showing lack of an adequate remedy of law." O.C.G.A. Section 12-9-13 specifically pertains to

enforcement proceedings when the Director of GA EPD has reason to believe that a violation of any provision of the Georgia Air Quality Act Article 1: Air Quality (O.C.G.A), or environmental rules, regulations, or orders have occurred. O.C.G.A. Section 12-9-14 also provides that the Governor may issue orders as necessary to protect the health of persons who are, or may be, affected by a pollution source or facility after “consult[ation] with local authorities in order to confirm the correctness of the information on which action proposed to be taken is based and to ascertain the action which such authorities are or will be taking.”

Georgia’s Air Quality Control Rule 391-3-1-.04 - “*Air Pollution Episodes*” provides that the Director of GA EPD “will proclaim that an Air Pollution Alert, Air Pollution Warning, or Air Pollution Emergency exists when the meteorological conditions are such that an air stagnation condition is in existence and/or the accumulation of air contaminants in any place is attaining or has attained levels which could, if such levels are sustained or exceeded, lead to a substantial threat to the health of persons in the specific area affected.” Collectively the cited provisions provide that Georgia demonstrates authority comparable with section 303 of the CAA and adequate contingency plans to implement such authority in the State.

North Carolina

North Carolina’s infrastructure SIP submission cites to 15A NCAC 2D .0300 - “*Air Pollution Emergencies*” as identifying air pollution emergency episodes and preplanned abatement strategies and provides the means to implement emergency air pollution episode measures. Under NCGS 143-215.3(a)(12) - *General powers of Commission and Department; auxiliary powers*, if NC DENR finds that such a “condition of . . . air pollution exists and that it creates an emergency requiring immediate action to protect the public health and safety or to protect fish and wildlife, the Secretary of the Department [NC DEQ] with the concurrence of the

Governor, shall order persons causing or contributing to the . . . air pollution in question to reduce or discontinue immediately the emission of air contaminants or the discharge of wastes.”

In addition, NCGS 143-215.3(a)(12) provides NC DEQ with the authority to declare an emergency when it finds that a generalized condition of water or air pollution which is causing imminent danger to the health or safety of the public.

EPA has made the preliminary determination that Georgia’s and North Carolina’s SIPs and state laws are adequate for emergency powers related to the 2015 8-hour ozone NAAQS. Accordingly, EPA is proposing to approve Georgia’s and North Carolina’s infrastructure SIP submission with respect to section 110(a)(2)(G).

9. 110(a)(2)(H) *SIP Revisions:* Section 110(a)(2)(H), in summary, requires each SIP to provide for revisions of such plan: (i) as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and (ii) whenever the Administrator finds that the plan is substantially inadequate to attain the NAAQS or to otherwise comply with any additional applicable requirements.

Georgia

GA EPD is responsible for adopting air quality rules and revising SIPs as needed to attain or maintain the NAAQS in Georgia. The State has the ability and authority to respond to calls for SIP revisions and has provided SIP revisions over the years for implementation of the NAAQS. O.C.G.A. Sections 12-9-6(b)(12) and 12-9-6(b)(13) provide Georgia with the authority to conduct certain actions in support of this infrastructure element. O.C.G.A. Section 12-9-6(b)(13) provides authority to GA EPD to develop, amend, modify, and submit a comprehensive plan or plans sufficient to comply with the CAA. O.C.G.A. Section 12-9-6(b)(12) authorizes GA

EPD to exercise all incidental powers necessary to carry out the Georgia Air Quality Act, which includes achieving and maintaining NAAQS.

North Carolina

NC DAQ is responsible for adopting air quality rules and revising SIPs as needed to attain or maintain the NAAQS in North Carolina. NCGS 143-215.107(a)(1) and (a)(10) grant NC DAQ with the authority to prepare and develop, after proper study, a comprehensive plan for the prevention of air pollution and implement the CAA, respectively. These provisions provide NC DAQ the ability and authority to respond to calls for SIP revisions, and North Carolina has provided number of SIP revisions over the years for implementation of the NAAQS. In addition, 15A NCAC 2D .2401(d) states that “[t]he EMC may specify through rulemaking a specific emission limit lower than that established under this rule for a specific source if compliance with the lower emission limit is required to attain or maintain the ambient air quality standard for ozone or any other ambient air quality standard in Section 15A NCAC 2D .0400.”

EPA has made the preliminary determination that Georgia and North Carolina adequately demonstrate a commitment to provide future SIP revisions related to the 2015 8-hour ozone NAAQS when necessary. Accordingly, EPA is proposing to approve Georgia’s and North Carolina’s infrastructure SIP submissions with respect to section 110(a)(2)(H).

10. 110(a)(2)(J) *Consultation with government officials, public notification, and PSD and visibility protection:*

EPA is proposing to approve Georgia’s and North Carolina’s infrastructure SIPs for the 2015 8-hour ozone NAAQS with respect to the general requirement in section 110(a)(2)(J) to include a program in the SIP that complies with the applicable consultation requirements of section 121 and the public notification requirements of section 127.

With regard to the visibility protection element of section 110(a)(2)(J), EPA's 2013 Guidance notes that it does not treat the visibility protection aspects of section 110(a)(2)(J) as applicable for purposes of the infrastructure SIP approval process. EPA recognizes that Georgia and North Carolina are subject to visibility protection and regional haze program requirements under part C of the Act (which includes sections 169A and 169B). However, there are no newly applicable visibility protection obligations after the promulgation of a new or revised NAAQS. As such, Georgia's and North Carolina's infrastructure SIP submissions related to the 2015 8-hour ozone NAAQS do not address the visibility protection element of section 110(a)(2)(J).

With regard to consultation, Section 110(a)(2)(J) of the CAA requires states to provide a process for consultation with local governments, designated organizations, and Federal Land Managers (FLMs) carrying out NAAQS implementation requirements pursuant to section 121 relative to consultation requirements of section 121, the public notification requirements of section 127, and PSD. EPA's rationale for the remaining sub-elements for Georgia and North Carolina are described below.

Georgia

Consultation with government officials (121 consultation): GA EPD cited to O.C.G.A. Section 12-9-5(b)(17), Georgia Administrative Procedures Act (O.C.G.A. §50-13-4), and Georgia's Air Quality Control Rule 391-3-1-.02(7) as it relates to visibility protection for this requirement. O.C.G.A. Section 12-9-5(b)(17) states that the Board of Natural Resources is to "establish satisfactory processes of consultation and cooperation with local governments or other designated organizations of elected officials or federal agencies for the purpose of planning, implementing, and determining requirements under this article to the extent required by the federal act." Georgia also cited to transportation conformity SIP revisions approved by EPA on

April 7, 2000 (*see* 65 FR 18245) - that contain state-wide consultation procedures for the implementation of transportation conformity which includes the development of mobile inventories for SIP development. Required partners covered by Georgia's consultation procedures include federal, state, and local transportation and air quality agency officials.

Public notification: With respect to public notification, section 110(a)(2)(J) of the CAA requires states to notify the public of NAAQS exceedances and associated health hazards, and to enhance public awareness of measures that can prevent such exceedances. GA EPD has public notice mechanisms in place to notify the public of instances or areas exceeding the NAAQS along with associated health effects through the Air Quality Index reporting system in required areas. GA EPD's Ambient Monitoring web page (www.georgiaair.org/amp) provides information regarding current and historical air quality across the State. Daily air quality forecasts may also be disseminated to the public in Atlanta through the Georgia Department of Transportation's electronic billboards. In its SIP submission, Georgia also notes that the non-profit organization in Georgia named "Clean Air Campaign" disseminates statewide air quality information and ways to reduce air pollution. Georgia Rule 391-3-1-.04 - "Air Pollution Episodes" enables the State to conduct certain actions in support of this infrastructure element. In addition, the following State statutes provide Georgia with the authority to make public declarations about air pollution episodes in support of this infrastructure element. O.C.G.A. 12-9-6(b)(8) provides authority to the Georgia Board of Natural Resources "[t]o collect and disseminate information and to provide for public notification in matters relating to air quality".

PSD: With regard to the PSD element of section 110(a)(2)(J), EPA is not proposing any action in this rulemaking. EPA will consider these requirements in relation to Georgia's 2015 8-hour ozone NAAQS infrastructure submission in a separate rulemaking.

North Carolina

Consultation with government officials (121 consultation): Rules 15A NCAC 2D.1600 -

General Conformity, 15A NCAC 2D .2000 - “*Transportation Conformity*,” and 15A NCAC 2D .0531 - “*Sources in Nonattainment Areas*,” along with the State’s Regional Haze Implementation Plan, provide for consultation with government officials whose jurisdictions might be affected by SIP development activities. Regarding conformity, North Carolina adopted state-wide consultation procedures for the implementation of transportation conformity. Implementation of transportation conformity as outlined in the consultation procedures requires NC DAQ to consult with Federal, state, and local transportation and air quality agency officials on the development of motor vehicle emissions budgets. The Regional Haze SIP provides for consultation between appropriate state, local, and tribal air pollution control agencies as well as the corresponding FLMs.

Public notification: With respect to public notification, section 110(a)(2)(J) of the CAA requires states to notify the public of NAAQS exceedances and associated health hazards, and to enhance public awareness of measures that can prevent such exceedances. Rule 15A NCAC 2D .0300 - “*Air Pollution Emergencies*” provides North Carolina with the authority to declare an emergency and notify the public accordingly when it finds a generalized condition of water or air pollution which is causing imminent danger to the health or safety of the public. Additionally, NC DAQ has the North Carolina Air Awareness Program which is a program to educate the public on air quality issues and promote voluntary emission reduction measures. NC DAQ also features a web page providing ambient monitoring information regarding current and historical air quality across the State at <http://www.ncair.org/monitor/>. North Carolina participates in

EPA's Air NOW program, which enhances public awareness of air quality in North Carolina and throughout the country.

PSD: With regard to the PSD element of section 110(a)(2)(J), EPA is not proposing any action in this rulemaking. EPA will consider these requirements in relation to North Carolina's 2015 8-hour ozone NAAQS infrastructure submission in a separate rulemaking.

EPA has made the preliminary determination that Georgia's and North Carolina's SIPs and practices adequately demonstrate that the States meets applicable requirements related to consultation with government officials, and the ability to provide public notification of section 110(a)(2)(J) for the 2015 8-hour ozone NAAQS. Thus, EPA is proposing to approve Georgia's and North Carolina's infrastructure SIPs for the 2015 8-hour ozone NAAQS with respect to the general requirement in section 110(a)(2)(J) for these provisions.

11. 110(a)(2)(K) *Air Quality Modeling and Submission of Modeling Data:* Section 110(a)(2)(K) of the CAA requires that SIPs provide for performing air quality modeling so that effects on air quality of emissions from NAAQS pollutants can be predicted and submission of such data to EPA can be made.

Georgia

O.C.G.A. Section 12-9-6(b)(13) provides GA EPD with the authority to conduct modeling actions and to submit air quality modeling data to EPA in support of this element as part of comprehensive planning to achieve and maintain the NAAQS. GA EPD also states that it has personnel with training and experience to conduct photochemical modeling to assess attainment of the ozone NAAQS.

Additionally, Georgia supports a regional effort to coordinate the development of emissions inventories and conduct regional modeling for several NAAQS, including the 2015 8-

hour ozone NAAQS, for the Southeastern states. Taken as a whole, Georgia's submission demonstrates that Georgia has the authority to provide relevant data for the purpose of predicting the effect on ambient air quality of the 2015 8-hour ozone NAAQS.

North Carolina

Rule 15A NCAC 2D .0600 - "*Monitoring: Recordkeeping: Reporting*" (authorized under NCGS 143-215.107(a)(4)) requires sources to provide information needed to model potential impacts on air quality. NCGS 143-215.107(a) also provides authority for the EMC to determine by means of field sampling and other studies, the degree of air contamination and air pollution in the state. Collectively, these regulations demonstrate that North Carolina has the authority to perform air quality modeling and to provide relevant data for the purpose of predicting the effect on ambient air quality of the 2015 8-hour ozone NAAQS. The submittal also states that DAQ currently has personnel with training and experience to conduct source-oriented dispersion modeling that would likely be used in PM_{2.5} NAAQS applications with models approved by EPA.

Additionally, North Carolina participates in a regional effort to coordinate the development of emissions inventories and conduct regional modeling for several NAAQS, including the 2015 8-hour ozone NAAQS, for the Southeastern states. Taken as a whole, North Carolina's air quality regulations and practices demonstrate that DAQ has the authority to provide relevant data for the purpose of predicting the effect on ambient air quality of any emissions of any pollutant for which a NAAQS has been promulgated, and to provide such information to EPA upon request.

EPA has made the preliminary determination that Georgia's and North Carolina's SIP submissions and practices adequately demonstrate the States' ability to provide for air quality

modeling, along with analysis of the associated data, related to the 2015 8-hour ozone NAAQS. Accordingly, EPA is proposing to approve Georgia's and North Carolina's infrastructure SIP submissions with respect to section 110(a)(2)(K).

12. 110(a)(2)(L) *Permitting Fees*: This section requires the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under the CAA, a fee sufficient to cover: (i) the reasonable costs of reviewing and acting upon any application for such a permit, and (ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by EPA's approval of a fee program under title V.

Georgia

Georgia's PSD and NNSR permitting programs are funded with title V fees. Georgia Rule 391-3-1-.03(9) - "*Permit Fees*," incorporates EPA-approved title V fee program. Georgia's authority to mandate funding for processing PSD and NNSR permits is found in O.C.G.A. 12-9-10. The State notes that these title V operating program fees cover the reasonable cost of implementation and enforcement of PSD and NNSR permits after they have been issued.

North Carolina

North Carolina's infrastructure SIP submission cites to 15A NCAC 02Q .0200 - "*Permit Fees*," which requires the owner or operator of source holding a permit to pay to the permitting authority a sufficient fee to cover the costs of the permitting program. The 15A NCAC 2Q .0500 rules contain the State's title V program¹³ and conditions which include provisions to implement

¹³ Title V program regulations are federally-approved but not incorporated into the SIP.

and enforce PSD and NNSR permits once these permits have been issued. NCGS 143-215.3 - *General powers of Commission and Department; auxiliary Powers*, provides authority for NC DAQ to require a processing fee in an amount sufficient for the reasonable cost of reviewing and acting upon PSD and NNSR permits.

EPA has made the preliminary determination that Georgia's and North Carolina's SIP submissions and practices adequately provide for permitting fees related to the 2015 8-hour ozone NAAQS, when necessary. Accordingly, EPA is proposing to approve Georgia's and North Carolina's infrastructure SIP submissions with respect to section 110(a)(2)(L).

13. 110(a)(2)(M) Consultation and Participation by Affected Local Entities: Section 110(a)(2)(M) of the Act requires states to provide for consultation and participation in SIP development by local political subdivisions affected by the SIP.

Georgia

Consultation and participation by affected local entities is authorized by O.C.G.A. 12-9-5(b)(17), which provides authority for the Board of Natural Resources to establish processes for consultation and cooperation with local entities for purposes of planning and implementing the CAA, Georgia's Air Quality Control Rule 391-3-1-.15 - "*Transportation Conformity*" defines the consultation procedures for areas subject to transportation conformity. Furthermore, GA EPD has demonstrated consultation with, and participation by, affected local entities through its work with local political subdivisions during the development of its Transportation Conformity SIP and has worked with the FLMs as a requirement of the regional haze rule.

North Carolina

Under the North Carolina Administrative Procedures Act, all state rules go through a public review process (NCGS 150B-21.1 and 150B-21.2). Also, 15A NCAC 2D .2000 -

“Transportation Conformity” requires a consultation with all affected partners to be implemented for transportation conformity determinations. Furthermore, NC DAQ has demonstrated consultation with, and participation by, affected local entities through its work with local political subdivisions during the development of its Transportation Conformity SIP, Regional Haze Implementation Plan, and the 8-Hour Ozone Attainment Demonstration for the North Carolina portion of the Charlotte-Gastonia-Rock Hill NC-SC nonattainment area.

EPA has made the preliminary determination that Georgia’s and North Carolina’s SIP submissions and practices adequately demonstrate consultation with affected local entities related to the 2015 8-hour ozone NAAQS when necessary.

V. Proposed Action

With the exception of interstate transport provisions of section 110(a)(2)(D)(i)(I) and (II) (prongs 1 and 2) pertaining to contribution to nonattainment or interference with maintenance in other states, and PSD provisions related to major sources under sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3), and 110(a)(2)(J), EPA is proposing to approve Georgia’s and North Carolina’s September 24, 2018 and September 27, 2018, SIP submissions for the 2015 8-hour ozone NAAQS for the above described infrastructure SIP requirements, respectively. EPA is proposing to approve Georgia’s and North Carolina’s infrastructure SIP submissions for certain requirements related to the 2015 8-hour ozone NAAQS because the submissions are consistent with section 110 of the CAA.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices,

provided that they meet the criteria of the CAA. These actions merely propose to approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For that reason, these proposed actions:

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Are not Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory actions because SIP approvals are exempted under Executive Order 12866;
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not an economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIPs subject to these proposed actions, are not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: December 12, 2019.

Mary S. Walker,
Regional Administrator,
Region 4.

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